§ 3.61 Reports of compliance.

* * * * *

(b) The Commission has delegated to the Directors of the Bureaus of Competition and Consumer Protection, without power of redelegation, the authority to approve compliance reports, reject compliance reports, and to close compliance investigations. This delegation does not apply to compliance with orders involving section 7 of the Clayton Act, to any matter which has received previous Commission consideration as to compliance or in which the Commission or any Commissioner has expressed an interest, any matter proposed to be closed by reason of expense of investigation or testing, or any matter involving substantial questions as to the public interest, Commission policy or statutory construction, in each of which type of case a report with recommendation will be made to the Commission. The approvals, rejections, and closings shall not be effective until the file relating to the subject matter has been transmitted to the Secretary and he shall have advised the Commission of the Bureau Director's determination and no one member within five (5) working days thereafter shall have objected to such determination. If upon the expiration of such 5-day period no Commissioner shall have objected, the Secretary shall enter upon the records of the Commission the determination of the matter and take such other action as is required.

* * * * *

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46)

By direction of the Commission dated May 12, 1971.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-6862 Filed 5-17-71;8:47 am]

PART 4—MISCELLANEOUS RULES

Public Records

The Commission announces the following amendments to Chapter I of Title 16 of the Code of Federal Regulations. These amendments are effective on the date of their publication in the FEDERAL REGISTER (5-18-71).

Section 4.9 (e)(13) and (g) are amended to read as follows:

§ 4.9 Public records.

* * * * *

(e) * * *

(13) Requests for advice concerning proposed mergers and applications for approval of proposed divestitures, acquisitions, or similar transactions subject to Commission review under outstanding orders, together with supporting materials and communications with respect to such proposed transactions received by any member of the Commission and any employee involved in the decisional process, to the extent that such requests, applications, and materials are made public under §§ 1.4(b) and 3.61(f) of this chapter; objections or comments with respect thereto which are filed for the public record; and any advice or response given and made public under §§ 1.4(b) and 3.61(f) of this chapter, together with a statement of supporting reasons.

* * * * *

(g) Reports of compliance and supplemental materials filed in connection with Commission orders requiring divestitures or establishment of business enterprises or facilities, save those otherwise specifically dealt with in § 3.61(f) of this chapter and paragraph (e)(13) of this section, shall be confidential until the last such divestiture or establishment of a business enterprise or facility, as required by a particular order, has been finally approved by the Commission. At the time each such report is submitted the filing party may request continuing confidentiality in whole or in part and submit satisfactory reason therefor, and the Commission with due regard for statutory restrictions, its rules and the public interest will pass upon such request.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46)

By direction of the Commission dated May 12, 1971.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-6863 Filed 5-17-71;8:47 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-130]

PART 153—ANTIDUMPING

Clear Plate and Float Glass From Japan

MAY 7, 1971.

The Secretary of the Treasury makes public a finding of dumping with respect to clear plate and float glass from Japan. Section 153.43, Customs Regulations, amended.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to such authority the Secretary of the Treasury has determined that clear plate and float glass from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of January 9, 1971 (36 F.R. 332, F.R. Doc. 71-283)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on April 7, 1971, it notified the Secretary of the Treasury, that an industry in the United States is being, or is likely to be, injured or prevented from being established by reason of the importation of clear plate and float glass from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of April 17, 1971 (36 F.R. 7330, F.R. Doc. 71-5355)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to clear plate and float glass from Japan.

Section 153.4 3of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Clear plate and float glass	Japan	71-130

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

[FR Doc.71-6905 Filed 5-17-71;8:51 am]

[T.D. 71-129]

PART 153—ANTIDUMPING

Ceramic Wall Tile From United Kingdom

MAY 6, 1971.

The Secretary of the Treasury makes public a finding of dumping with respect to ceramic wall tile from the United Kingdom. Section 153.43, Customs Regulations, amended.

Section 201(a) of the Antidumping Act 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to such authority the Secretary of the Treasury has determined that ceramic wall tile from the United Kingdom is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of January 9, 1971 (36 F.R. 331, F.R. Doc. 71-282))

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on April 7, 1971, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of ceramic wall tile from the United Kingdom sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of April 13, 1971 (36 F.R. 736, F.R. Doc. 71-5111))

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to ceramic wall tile from the United Kingdom.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Ceramic wall tile	United Kingdom	71-129

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-6906 Filed 5-17-71;8:51 am]

[T.D. 71-131]

PART 153—ANTIDUMPING

Clear Sheet Glass From Japan

MAY 7, 1971.

The Secretary of the Treasury makes public a finding of dumping with respect to clear sheet glass from Japan. Section 153.43, Customs Regulations, amended.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to such authority the Secretary of the Treasury has determined that clear sheet glass from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of January 9, 1971 (36 F.R. 333, F.R. Doc. 71-321)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on April 7, 1971, it notified the Secretary of the Treasury that an industry in the United States is being, or is likely to be, injured or prevented from being established by reason of the importation of clear sheet glass from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of April 17, 1971 (36 F.R. 7330, F.R. Doc. 71-5355)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to clear sheet glass from Japan.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Clear sheet glass	Japan	71-131

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-6907 Filed 5-17-71;8:51 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 25—DRESSINGS FOR FOOD

French Dressing Identity Standard; Order Listing Xanthan Gum as Optional Ingredient

In the matter of amending the standard of identity for french dressing (21 CFR 25.2) to permit the use of xanthan gum as an optional emulsifying ingredient:

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of January 19, 1971 (36 F.R. 829), based on a petition submitted jointly by Anderson Clayton Foods, 3333 North Central Expressway, Richardson, Tex. 75080; The Kroger Co., 1240 State Avenue, Cincinnati, Ohio 45204; Leslie Foods, Inc., 575 Independent Road, Oakland, Calif. 94566; Thomas J. Lipton, Inc., 800 Sylvan Avenue, Englewood Cliffs, N.J. 07632; and Kelco Co. 1010 Second Avenue, San Diego, Calif. 92101.

The only comment received in response to the proposal favored it.

On the basis of information submitted in the petition, the comment received, and other relevant information, the Commissioner concludes that adopting the proposal will promote honesty and fair dealing in the interest of consumers.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That § 25.2(c)(1) be revised to read as follows:

§ 25.2 French dressing; identity; label statement of optional ingredients.

* * * * *

(c) * * *

(1) Gum acacia (also called gum arabic), carob bean gum (also called locust bean gum), guar gum, gum karaya, gum tragacanth, extract of Irish moss, pectin, propylene glycol ester of alginic acid, xanthan gum complying with the requirements of § 121.1224 of this chapter, sodium carboxymethylcellulose (cellulose gum), methylcellulose U.S.P. (methoxy content not less than 27.5 percent and not more than 31.5 percent on a dry-weight basis), hydroxypropyl methylcellulose, or any mixture of two or more of these, or any of the foregoing with calcium carbonate or sodium hexametaphosphate, or both.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: May 6, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-6843 Filed 5-17-71;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7116]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Amortization of Pollution Control Facilities

On December 29, 1970, there was published in the FEDERAL REGISTER (35 F.R. 19672) a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 169 of the Internal Revenue Code of 1954, relating to amortization of pollution control facilities, as added by section 704 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 667). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendment to the regulations as proposed is hereby adopted, subject to the changes set forth below. Section 1.169-4 of the regulations hereby adopted supersedes those provisions of § 13.0 of this chapter relating to section 169(b) of the Code, which were prescribed by T.D. 7032, approved March 9, 1970 (35 F.R. 4330).

PARAGRAPH 1. Section 1.169-1 as set forth in paragraph 2 of the notice of

proposed rule making is changed by revising subparagraph (6) of paragraph (a), by adding subparagraph (7) to paragraph (a), and by revising example (1) of paragraph (b).

PAR. 2. Section 1.169–2, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraph (a), by revising subparagraph (1) of paragraph (b), by revising subparagraph (2) of paragraph (b) by revising subdivision (ii) thereof, by deleting subdivision (iii) thereof, by redesignating subdivision (iv) thereof as subdivision (iii) and revising so much of such subdivision redesignated as (iii) as precedes (a) thereof, by redesignating subdivision (v) as subdivision (iv) and revising so much of such subdivision redesignated as (iv) as precedes (a) thereof, by revising so much of paragraph (c) (1) as precedes subdivision (i) thereof, by revising subparagraphs (1) (ii) and (2) of paragraph (c), and by revising paragraph (d).

PAR. 3. Section 1.169–3 as set forth in paragraph (2) of the notice of proposed rule making, is changed by revising paragraph (a), by revising subparagraph (1) of paragraph (b), by revising paragraphs (c) and (d), by redesignating the example in paragraph (e) as example (1) and revising it, and by adding example (2) to paragraph (e).

PAR. 4. Section 1.169–4, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising subparagraphs (1) and (2) of paragraph (a) and by revising subparagraph (1) of paragraph (b).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: May 13, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.169 is amended by deleting section 169 and adding a new section 169 and a historical note to read as follows:

§ 1.169 Statutory provisions; amortization of pollution control facilities.

Sec. 169. *Amortization of pollution control facilities*—(a) *Allowance of deduction.* Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by section 167. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) *Election of amortization.* The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

(c) *Termination of amortization deduction.* A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) *Definitions.* For purposes of this section—

(1) *Certified pollution control facility.* The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1969, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

(A) The State certifying authority having jurisdiction with respect to such facility has certified to the Federal certifying authority as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination; and

(B) The Federal certifying authority has certified to the Secretary or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(2) *State certifying authority.* The term "State certifying authority" means, in the case of water pollution, the State water pollution control agency as defined in section 13(a) of the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in section 302(b) of the Clean Air Act. The term "State certifying authority" includes any interstate agency authorized to act in place of a certifying authority of the State.

(3) *Federal certifying authority.* The term "Federal certifying authority" means, in the case of water pollution, the Secretary of the Interior and, in the case of air pollution, the Secretary of Health, Education, and Welfare.

(4) *New identifiable treatment facility.* For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which—

(A) Is property—

(i) The construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

(ii) Acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date, and

(B) Is placed in service by the taxpayer before January 1, 1975.

In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

(e) *Profitmaking abatement works, etc.* The Federal certifying authority shall not certify any property under subsection (d) (1) (B) to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) *Amortizable basis*—(1) *Defined.* For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) *Special rules.*—

(A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) *Depreciation deduction.* The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) *Investment credit not to be allowed.* In the case of any property with respect to which an election has been made under subsection (a), so much of the adjusted basis of the property as (after the application of subsection (f)) constitutes the amortizable basis for purposes of this section shall not be treated as section 38 property within the meaning of section 48(a).

(i) *Life tenant and remainderman.* In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(j) *Cross reference.* For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245.

[Sec. 169 as added by sec. 704, Tax Reform Act 1969 (83 Stat. 667)]

PAR. 2. Sections 1.169–1 through 1.169–8 are amended by deleting them and adding new §§ 1.169–1, 1.169–2, 1.169–3, and 1.169–4 to read as follows:

§ 1.169–1 Amortization of pollution control facilities.

(a) *Allowance of deduction*—(1) *In general.* Under section 169(a), every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis (as defined in § 1.169–3) of any certified pollution control facility (as defined in § 1.169–2), based on a period of 60 months. Under section 169(b) and paragraph (a) of § 1.169–4, the taxpayer may further elect to begin such 60-month period either with the month following the month in which the facility is completed or acquired or with the first month of the taxable year succeeding the taxable year in which such facility is completed or acquired. Under section 169(c), a taxpayer who has elected under section 169(b) to take the amortization deduction provided by section 169(a) may, at any time after making such election and prior to the expiration of the 60-month amortization period, elect to discontinue the amortization deduction for the remainder of the 60-month period in the manner prescribed in paragraph (b)(1) of § 1.169–4. In addition, if on or before May 18, 1971, an election under section 169(a) has been made, consent is hereby given to revoke such election without the consent of the Commissioner in the manner prescribed in (b)(2) of § 1.169–4.

(2) *Amount of deduction.* With respect to each month of such 60-month period which falls within the taxable year, the amortization deduction shall be an amount equal to the amortizable basis of the certified pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in such 60-month period. The amortizable basis at the end of any month shall be computed without regard to the amortization deduction for such month. The total amortization deduction with respect to a certified pollution control facility for a taxable year is the sum of the amortization deductions allowable for each month of the 60-month period which falls within such taxable year. If a certified pollution control facility is sold or exchanged or otherwise disposed of during 1 month, the amortization deduction (if any) allowable to the original holder in respect of such month shall be that portion of the amount to which such person would be entitled for a full month which the number of days in such month during which the facility was held by such person bears to the total number of days in such month.

(3) *Effect on other deductions.* (i) The amortization deduction provided by section 169 with respect to any month shall be in lieu of the depreciation deduction which would otherwise be allowable under section 167 or a deduction in lieu of depreciation which would otherwise be allowable under paragraph (b) of § 1.162–11 for such month.

(ii) If the adjusted basis of such facility as computed under section 1011 for purposes other than the amortization deduction provided by section 169 is in excess of the amortizable basis, as computed under § 1.169–3, such excess shall be recovered through depreciation deductions under the rules of section 167. See section 169(g).

(iii) See section 179 and paragraph (e)(1)(ii) of § 1.179–1 and paragraph (b)(2) of § 1.169–3 for additional first-year depreciation in respect of a certified pollution control facility.

(4) *Investment credit not to be allowed.* In the case of any property with respect to which an election has been made under section 169(a), so much of the adjusted basis of the property as constitutes the amortizable basis, as computed under § 1.169–3, shall not be treated as section 38 property within the meaning of section 48(a). See section 169(h).

(5) *Special rules.* (i) In the case of a certified pollution control facility held by one person for life with the remainder to another person, the amortization deduction under section 169(a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant during his life.

(ii) If the assets of a corporation which has elected to take the amortization deduction under section 169(a) are acquired by another corporation in a transaction to which section 381 (relating to carryovers in certain corporate acquisitions) applies, the acquiring corporation is to be treated as if it were the distributor or transferor corporation for purposes of this section.

(iii) For the right of estates and trusts to amortize pollution control facilities see section 642(f) and § 1.642(f)–1. For the allowance of the amortization deduction in the case of pollution control facilities of partnerships, see section 703 and § 1.703–1.

(6) *Depreciation subsequent to discontinuance or in the case of revocation of amortization.* A taxpayer which elects in the manner prescribed under paragraph (b)(1) of § 1.169–4 to discontinue amortization deductions or under paragraph (b)(2) of § 1.169–4 to revoke an election under section 169(a) with respect to a certified pollution control facility is entitled, if such facility is of a character subject to the allowance for depreciation provided in section 167, to a deduction for depreciation (to the extent allowable) with respect to such facility. In the case of an election to discontinue an amortization deduction, the deduction for depreciation shall begin with the first month as to which such amortization deduction is not applicable and shall be computed on the adjusted basis of the property as of the beginning of such month (see section 1011 and the regulations thereunder). Such depreciation deduction shall be based upon the remaining portion of the period authorized under section 167 for the facility as determined, as of the first day of the first month as of which the amortization deduction is not applicable. If the taxpayer so elects to discontinue the amortization deduction under section 169(a), such taxpayer shall not be entitled to any further amortization deduction under this section and section 169(a) with respect to such pollution control facility. In the case of a revocation of an election under section 169(a), the deduction for depreciation shall begin as of the time such depreciation deduction would have been taken but for the election under section 169(a). See paragraph (b)(2) of § 1.169–4 for rules as to filing amended returns for years for which amortization deductions have been taken.

(7) *Definitions.* Except as otherwise provided in § 1.169–2, all terms used in section 169 and the regulations thereunder shall have the meaning provided by this section and §§ 1.169–2 through 1.169–4.

(b) *Examples.* This section may be illustrated by the following examples:

Example (1). On September 30, 1970, the X Corporation, which uses the calendar year as its taxable year, completes the installation of a facility all of which qualifies as a certified pollution control facility within the meaning of paragraph (a) of § 1.169–2. The cost of the facility is $120,000 and the period referred to in paragraph (a)(6) of § 1.169–2 is 10 years in accordance with the rules set forth in paragraph (a) of § 1.169–4, on its income tax return filed for 1970, X elects to take amortization deductions under section 169(a) with respect to the facility and to begin the 60-month amortization period with October 1970, the month following the month in which it was completed. The amortizable basis at the end of October 1970 (determined without regard to the amortization deduction under section 169(a) for that month) is $120,000. The allowable authorization deduction with respect to such facility for the taxable year 1970 is $6,000, computed as follows:

Monthly amortization deductions:	
October: $120,000 divided by 60	$2,000
November: $118,000 (that is, $120,000 minus $2,000) divided by 59	2,000
December: $116,000 (that is, $118,000 minus $2,000) divided by 58	2,000
Total amortization deduction for 1970	6,000

Example (2). Assume the same facts as in example (1). Assume further that on May 20, 1972, X properly files notice of its election to discontinue the amortization deductions with the month of June 1972. The adjusted basis of the facility as of June 1, 1972, is $80,000, computed as follows:

Yearly amortization deductions:	
1970 (as computed in example (1))	$6,000
1971 (computed in accordance with example (1))	24,000
1972 (for the first 5 months of 1972 computed in accordance with example (1))	10,000
Total amortization deductions for 20 months	40,000

Adjusted basis as beginning of amortization period	120,000
Less: Amortization deductions	40,000
Adjusted basis as of June 1, 1972	80,000

Beginning as of June 1, 1972, the deduction for depreciation under section 167 is allowable with respect to the property on its adjusted basis of $80,000.

(a) *Certified pollution control facility*—(1) *In general.* Under section 169 (d), the term "certified pollution control facility" means a facility which—

(i) The Federal certifying authority certifies, in accordance with the rules prescribed in paragraph (c) of this section, is a "treatment facility" described in subparagraph (2) of this paragraph, and

(ii) Is "a new identifiable facility" (as defined in paragraph (b) of this section).

For profitmaking abatement works limitation, see paragraph (d) of this section.

(2) *Treatment facility.* For purposes of subparagraph (1)(i) of this paragraph, a "treatment facility" is a facility which (i) is used to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and (ii) is used in connection with a plant or other property in operation before January 1, 1969. Determinations under subdivision (i) of this subparagraph shall be made solely by the Federal certifying authority. See subparagraph (3) of this paragraph. For meaning of the phrases "plant or other property" and "in operation before January 1, 1969," see subparagraphs (4) and (5), respectively, of this paragraph.

(3) *Facilities performing multiple functions or used in connection with several plants, etc.* (i) If a facility is designed to perform or does perform a function in addition to abating or controlling water or atmospheric pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes, or heat, such facility shall be a treatment facility only with respect to that part of the cost thereof which is certified by the Federal certifying authority as attributable to abating of controlling water or atmospheric pollution or contamination. For example, if a machine which performs a function in addition to abating water pollution is installed at a cost of $100,000 in, and is used only in connection with, a plant which was in operation before January 1, 1969, and if the Federal certifying authority certifies that $30,000 of the cost of such machine is allocable to its function of abating water pollution, such $30,000 will be deemed to be the adjusted basis for purposes of determining gain for purposes of paragraph (a) of § 1.169–3.

(ii) If a facility is used in connection with more than one plant or other property, and at least one such plant or other property was not in operation before January 1, 1969, such facility shall be a treatment facility only to the extent of that part of the cost thereof certified by the Federal certifying authority as attributable to abating or controlling water or atmospheric pollution in connection with plants or other property in operation before January 1, 1969. For example, if a machine is constructed after December 31, 1968, at a cost of $100,000 and is used in connection with a number of plants only some of which were in operation before January 1, 1969, and if the Federal certifying authority certifies that $20,000 of the cost of such machine is allocable to its function of abating or controlling water pollution in connection with the plants or other property in operation before January 1, 1969, such $20,000 will be deemed to be the adjusted basis for purposes of determining gain for purposes of paragraph (a) of § 1.169–3. In a case in which the Federal certifying authority certifies the percentage of a facility which is used in connection with plants or other property in operation before January 1, 1969, the adjusted basis for the purposes of determining gain for purposes of paragraph (a) of § 1.169–3 of the portion of the facility so used shall be the adjusted basis for determining gain of the entire facility multiplied by such percentage.

(4) *Plant or other property.* As used in subparagraph (2) of this paragraph, the phrase "plant or other property" means any tangible property whether or not such property is used in the trade or business or held for the production of income. Such term includes, for example, a papermill, a motor vehicle, or a furnace in an apartment house.

(5) *In operation before January 1, 1969.* (i) For purposes of subparagraph (2) of this paragraph and section 169 (d), a plant or other property will be considered to be in operation before January 1, 1969, if prior to that date such plant or other property was actually performing the function for which it was constructed or acquired. For example, a papermill which is completed in July 1968, but which is not actually used to produce paper until 1969 would not be considered to be in operation before January 1, 1969. The fact that such plant or other property was only operating at partial capacity prior to January 1, 1969, or was being used as a standby facility prior to such date, shall not prevent its being considered to be in operation before such date.

(ii) (*a*) A piece of machinery which replaces one which was in operation prior to January 1, 1969, and which was a part of the manufacturing operation carried on by the plant but which does not substantially increase the capacity of the plant will be considered to be in operation prior to January 1, 1969. However, an additional machine that is added to a plant which was in operation before January 1, 1969, and which represents a substantial increase in the plant's capacity will not be considered to have been in operation before such date. There shall be deemed to be a substantial increase in the capacity of a plant or other property as of the time its capacity exceeds by more than 20 percent its capacity on December 31, 1968.

(*b*) In addition, if the total replacements of equipment in any single taxable year beginning after December 31, 1968, represent the replacement of a substantial portion of a manufacturing plant which had been in operation before such date, such replacement shall be considered to result in a new plant which was not in operation before such date. Thus, if a substantial portion of a plant which was in existence before January 1, 1969, is subsequently destroyed by fire and such substantial portion is replaced in a taxable year beginning after that date, such replacement property shall not be considered to have been in operation before January 1, 1969. The replacement of a substantial portion of a plant or other property shall be deemed to have occurred if, during a single taxable year, the taxpayer replaces manufacturing or production facilities or equipment which comprises such plant or other property and which has an adjusted basis (determined without regard to the adjustments provided in section 1016(a) (2) and (3)) in excess of 20 percent of the adjusted basis (so determined) of such plant or other property determined as of the first day of such taxable year.

(6) *Useful life.* For purposes of section 169 and the regulations thereunder, the terms "useful life" and "actual useful life" shall means the shortest period authorized under section 167 and the regulations thereunder if an election were not made under section 169.

(b) *New identifiable facility*—(1) *In general.* For purposes of paragraph (a)(1)(ii) of this section, the term "new identifiable facility" includes only tangible property (not including a building and its structural components referred to in subparagraph (2)(i) of this paragraph, other than a building and its structural components which under subparagraph (2)(ii) of this paragraph is exclusively a treatment facility) which—

(i) Is of a character subject to the allowance for depreciation provided in section 167.

(ii) (*a*) Is property the construction, reconstruction, or erection (as defined in subparagraph (2)(iii) of this paragraph) of which is completed by the taxpayer after December 31, 1968, or

(*b*) Is property acquired by the taxpayer after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date (see subparagraph (2)(iii) of this paragraph), and

(iii) Is placed in service (as defined in subparagraph (2)(v) of this paragraph) prior to January 1, 1975.

(2) *Meaning of terms.* (i) For purposes of subparagraph (1) of this paragraph, the terms "building" and "structural component" shall be construed in a manner consistent with the principles set forth in paragraph (e) of § 1.48–1. Thus, for example, the following rules are applicable:

(*a*) The term "building" generally means any structure or edifice enclosing a space within its walls, and usually covered by a roof, the purpose of which

is, for example, to provide shelter or housing, or to provide working, office, parking, display, or sales space. The term includes, for example, structures such as apartment houses, factory and office buildings, warehouses, barns, garages, railway or bus stations, and stores. Such term includes any such structure constructed by, or for, a lessee even if such structure must be removed, or ownership of such structure reverts to the lessor, at the termination of the lease. Such term does not include (*1*) a structure which is essentially an item of machinery or equipment, or (*2*) an enclosure which is so closely combined with the machinery or equipment which it supports, houses, or serves that it must be replaced, retired, or abandoned contemporaneously with such machinery or equipment, and which is depreciated over the life of such machinery or equipment. Thus, the term "building" does not include such structures as oil and gas storage tanks, grain storage bins, silos, fractioning towers, blast furnaces, coke ovens, brick kilns, and coal tipples.

(*b*) The term "structural components" includes, for example, chimneys, and other components relating to the operating or maintenance of a building. However, the term "structural components" does not include machinery or a device which serves no function other than the abatement or control of water or atmospheric pollution.

(ii) For purposes of subparagraph (1) of this paragraph, a building and its structural components will be considered to be exclusively a treatment facility if its only function is the abatement or control of air or water pollution. However, the incidental recovery of profits from wastes or otherwise shall not be deemed to be a function other than the abatement or control of air or water pollution. A building and its structural components which serve no function other than the treatment of wastes will be considered to be exclusively a treatment facility even if it contains areas for employees to operate the treatment facility, rest rooms for such workers, and an office for the management of such treatment facility. However, for example, if a portion of a building is used for the treatment of sewage and another portion of the building is used for the manufacture of machinery, the building is not exclusively a treatment facility. The Federal certifying authority will not certify as to what is a building and its structural components within the meaning of subdivsion (i) of this subparagraph.

(iii) For purposes of subparagraph (1) (ii) (*a*) and (*b*) of this paragraph (relating to construction, reconstruction, or erection after December 31, 1968, and original use after December 31, 1968) and paragraph (b)(1) of § 1.169–3 (relating to definition of amortizable basis), the principles set forth in paragraph (a) (1) and (2) of § 1.167(c)–1 and in paragraphs (b) and (c) of § 148–2 shall be applied. Thus, for example, the following rules are applicable:

(*a*) Property is considered as constructed, reconstructed, or erected by the taxpayer if the work is done for him in accordance with his specifications.

(*b*) The portion of the basis of property attributable to construction, reconstruction, or erection after December 31, 1968, consists of all costs of construction, reconstruction, or erection allocable to the period after December 31, 1968, including the cost or other basis of materials entering into such work (but not including, in the case of reconstruction of property, the adjusted basis of the property as of the time such reconstruction is commenced).

(*c*) It is not necessary that materials entering into construction, reconstruction or erection be acquired after December 31, 1968, or that they be new in use.

(*d*) If construction or erection by the taxpayer began after December 31, 1968, the entire cost or other basis of such construction or erection may be taken into account for purposes of determining the amortizable basis under section 169.

(*e*) Construction, reconstruction, or erection by the taxpayer begins when physical work is started on such construction, reconstruction, or erection.

(*f*) Property shall be deemed to be acquired when reduced to physical possession or control.

(*g*) The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. For example, a reconditioned or rebuilt machine acquired by the taxpayer after December 31, 1968, for pollution control purposes will not be treated as being put to original use by the taxpayer regardless of whether it was used for purposes other than pollution control by its previous owner. Whether property is reconditioned or rebuilt property is a question of fact. Property will not be treated as reconditioned or rebuilt merely because it contains some used parts.

(iv) For purposes of subparagraph (1) (iii) of this paragraph (relating to property placed in service prior to January 1, 1975), the principles set forth in paragraph (d) of § 1.46–3 are applicable. Thus, property shall be considered placed in service in the earlier of the following taxable years:

(*a*) The taxable year in which, under the taxpayer's depreciation practice, the period for depreciation with respect to such property begins or would have begun; or

(*b*) The taxable year in which the property is placed in a condition or state of readiness and availability for the abatement or control of water or atmospheric pollution.

Thus, if property meets the conditions of (*b*) of this subdivision in a taxable year, it shall be considered placed in service in such year notwithstanding that the period for depreciation with respect to such property begins or would have begun in a succeeding taxable year because, for example, under the taxpayer's depreciation practice such property is or would have been accounted for in a multiple asset account and depreciation is or would have been computed under an "averaging convention" (sec. § 1.167(a)–10), or depreciation with respect to such property would have been computed under the completed contract method, the unit of production method, or the retirement method. In the case of property acquired by a taxpayer for use in his trade or business (or in the production of income), property shall be considered in a condition or state of readiness and availability for the abatement or control of water or atmospheric pollution if, for example, equipment is acquired for the abatement or control of water or atmospheric pollution and is operational but is undergoing testing to eliminate any defects. However, materials and parts acquired to be used in the construction of an item of equipment shall not be considered in a condition or state of readiness and availability for the abatement or control of water or atmospheric pollution.

(c) *Certification*—(1) *In general.* For purposes of paragraph (a)(1) of this section, a facility is certified in accordance with the rules prescribed in this paragraph if—

(i) The State certifying authority (as defined in subparagraph (2) of this paragraph) having jurisdiction with respect to such facility has certified to the Federal certifying authority (as defined in subparagraph (3) of this paragraph) that the facility was constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for the abatement or control of water or atmospheric pollution or contamination applicable at the time of such certification, and

(ii) The Federal certifying authority has certified such facility to the Secretary or his delegate as (*a*) being in compliance with the applicable regulations of Federal agencies (such as, for example, the Atomic Energy Commission's regulations pertaining to radiological discharge (10 CFR Part 20)) and (*b*) being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175) or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(2) *State certifying authority.* The term "state certifying authority" means—

(i) In the case of water pollution, the State water pollution control agency as defined in section 23(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1173(a)),

(ii) In the case of air pollution, the air pollution control agency designated pursuant to section 302(b)(1) of the Clean Air Act, as amended (42 U.S.C. 1857h(b)), and

(iii) Any interstate agency authorized to act in place of a certifying authority of a State. See section 23(a) of the Federal Water Pollution Control Act,

as amended (33 U.S.C. 1173(b)) and section 302(c) of the Clean Air Act, as amended (42 U.S.C. 1857h(c)).

(3) *Federal certifying authority.* The term "Federal certifying authority" means the Administrator of the Environmental Protection Agency (see Reorganization Plan No. 3 of 1970, 35 F.R. 15623).

(d) *Profitmaking abatement works, etc.*—(1) *In general.* Section 169(e) provides that the Federal certifying authority shall not certify any property to the extent it appears that by reason of estimated profits to be derived through the recovery of wastes or otherwise in the operation of such property its costs will be recovered over the period referred to in paragraph (a)(6) of this section for such property. The Federal certifying authority need not certify the amount of estimated profits to be derived from such recovery of wastes or otherwise with respect to such facility. Such estimated profits shall be determined pursuant to subparagraph (2) of this paragraph. However, the Federal certifying authority shall certify—

(i) Whether, in connection with any treatment facility so certified, there is potential cost recovery through the recovery of wastes or otherwise, and

(ii) A specific description of the wastes which will be recovered, or the nature of such cost recovery if otherwise than through the recovery of wastes.

For effect on computation of amortizable basis, see paragraph (c) of § 1.169–3.

(2) *Estimated profits.* For purpose of this paragraph, the term "estimated profits" means the estimated gross receipts from the sale of recovered wastes reduced by the sum of the (i) estimated average annual maintenance and operating expenses, including utilities and labor, allocable to that portion of the facility which is certified as a treatment facility pursuant to paragraph (a)(1)(i) of this section which produces the recovered waste from which the gross receipts are derived and (ii) estimated selling expenses. However, in determining expenses to be subtracted neither depreciation nor amortization of the facility is to be taken into account. Estimated profits shall not include any estimated savings to the taxpayer by reason of the taxpayer's reuse or recycling of wastes or other items recovered in connection with the operation of the plant or other property served by the treatment facility.

(3) *Special rules.* The estimates of cost recovery required by subparagraph (2) of this paragraph shall be based on the period referred to in paragraph (a)(6) of this section. Such estimates shall be made at the time the election provided for by section 169 is made and shall also be set out in the application for certification made to the Federal certifying authority. There shall be no redetermination of estimated profits due to unanticipated fluctuations in the market price for wastes or other items, to an unanticipated increase or decrease in the costs of extracting them from the gas or liquid released, or to other unanticipated factors or events occurring after certification.

§ 1.169–3 Amortizable basis.

(a) *In general.* The amortizable basis of a certified pollution control facility for the purpose of computing the amortization deduction under section 169 is the adjusted basis of such facility for purposes of determining gain (see part II (section 1011 and following) subchapter O, chapter 1 of the Code), as modified by paragraphs (b), (c), and (d) of this section. For the adjusted basis for purposes of determining gain (computed without regard to such modifications) of a facility which performs a function in addition to pollution control, or which is used in connection with more than one plant or other property, or both, see paragraph (a)(3) of § 1.169–2. For rules as to additions and improvements to such a facility, see paragraph (f) of this section.

(b) *Limitation to post-1968 construction, reconstruction, or erection.* (1) If the construction, reconstruction, or erection was begun before January 1, 1969, there shall be included in the amortizable basis only so much of the adjusted basis of such facility for purposes of determining gain (referred to in paragraph (a) of this section) as is properly attributable under the rules set forth in paragraph (b)(2)(iii) of § 1.169–2 to construction, reconstruction, or erection after December 31, 1968. See section 169(d)(4). For example, assume a certified pollution control facility for which the shortest period authorized under section 167 is 10 years has a cost of $500,000, of which $450,000 is attributable to construction after December 31, 1968. Further, assume such facility does not perform a function in addition to pollution control and is used only in connection with a plant in operation before January 1, 1969. The facility would have an amortizable basis of $450,000 (computed without regard to paragraphs (c) and (d) of this section). For depreciation of the remaining portion ($50,000) of the cost, see section 169(g) and paragraph (a)(3)(ii) of § 1.169–1. For the definition of the term "certified pollution control facility" see paragraph (a) of § 1.169–2.

(2) If the taxpayer elects to begin the 60-month amortization period with the first month of the taxable year succeeding the taxable year in which such facility is completed or acquired and a depreciation deduction is allowable under section 167 (including an additional first-year depreciation allowance under section 179) with respect to the facility for the taxable year in which it is completed or acquired, the amount determined under subparagraph (1) of this paragraph shall be reduced by an amount equal to (i) the amount of such allowable depreciation multiplied by (ii) a fraction the numerator of which is the amount determined under subparagraph (1) of this paragraph, and the denominator of which is its total cost. The additional first-year allowance for depreciation under section 179 will be allowable only for the year in which the facility is completed or acquired and only if the taxpayer elects to begin the amortization deduction under section 169 with the taxable year succeeding the taxable year in which such facility is completed or acquired. See paragraph (e)(1)(ii) of § 1.179–1.

(c) *Modification for profitmaking abatement works, etc.* If it appears that by reason of estimated profits to be derived through the recovery of wastes, or otherwise (as determined by applying the rules prescribed in paragraph (d) of § 1.169–2) a portion or all of the total costs of the certified pollution control facility will be recovered over the period referred to in paragraph (a)(b) of § 1.169–2, its amortizable basis (computed without regard to this paragraph and paragraph (d) of this section) shall be reduced by an amount equal to (1) its amortizable basis (so computed) multiplied by (2) a fraction the numerator of which is such estimated profits and the denominator of which is its adjusted basis for purposes of determining gain. See section 169(e).

(d) *Cases in which the period referred to in paragraph (a)(6) of § 1.169–2 exceeds 15 years.* If as to a certified pollution control facility the period referred to in paragraph (a)(6) of § 1.169–2 exceeds 15 years (determined as of the first day of the first month for which a deduction is allowable under the election made under the section 169(b) and paragraph (a) of § 1.169–4), the amortizable basis of such facility shall be an amount equal to (1) its amortizable basis (computed without regard to this paragraph) multiplied by (2) a fraction the numerator of which is 15 years and the denominator of which is the number of years of such period. See section 169(f)(2)(A).

(e) *Examples.* This section may be illustrated by the following example:

Example (1). The X Corporation, which uses the calendar year as its taxable year, began the installation of a facility on November 1, 1968, and completed the installation on June 30, 1970, at a cost of $400,000. All of the facility qualifies as a certified pollution control facility within the meaning of paragraph (a) of § 1.169–2. $40,000 of such cost is attributable to construction prior to January 1, 1969. The X Corporation elects to take amortization deductions under section 169 (a) with respect to the facility and to begin the 60-month amortization period with January 1, 1971. The corporation takes a depreciation deduction under sections 167 and 179 of $10,000 (the amount allowable, of which $2,000 is for additional first year depreciation under section 179) for the last 6 months of 1970. It is estimated that over the period referred to in paragraph (a)(6) of §1.169–2 (20 years) as to such facility, $80,000 in profits will be realized from the sale of wastes recovered in its operation. The amortizable basis of the facility for purposes of computing the amortization deduction as of January 1, 1971, is $210,600, computed as follows:

(1) Portion of $400,000 cost attributable to post-1968 construction, reconstruction, or erection	$360,000

(2) Reduction for portion of depreciation deduction taken for the taxable year in which the facility was completed:		
(a) $10,000 depreciation deduction taken for last 6 months of 1970 including $2,000 for additional first year depreciation under section 179	$10,000	
(b) Multiplied by the amount in line (1) and divided by the total cost of the facility ($360,000/$400,000)	0.9	$9,000
(3) Subtotal		$351,000
(4) Modification for profit making abatement works: Multiply line (3) by estimated profits through waste recovery ($80,000) and divide by the adjusted basis for determining gain of the facility ($400,000)		
(5) Reduction		$70,200
(6) Subtotal		$280,800
(7) Modification for period referred to in paragraph (a)(6) of § 1.169-2 exceeding 15 years: Multiply by 15 years and divide by such period (determined in accordance with paragraph (d) of this section) (20 years)		0.75
(8) Amortizable basis		$210,600

Example (2). Assume the same facts as in example (1) except that the facility is used in connection with a number of separate plants some of which were in operation before January 1, 1969, that the Federal certifying authority certifies that 80 percent of the capacity of the facility is allocable to the plants which were in operation before such date, and that all of the waste recovery is allocable to the portion of the facility used in connection with the plants in operation before January 1, 1969. The amortizable basis of such facility, for purposes of computing the amortization deduction as of January 1, 1971, is $157,950 computed as follows:

(1) Adjusted basis for purposes of determining gain: Multiply percent certified as allocable to plants in operation before January 1, 1969 (80 percent) by cost of entire facility ($400,000)		$320,000
(2) Portion of adjusted basis for determining gain attributable to post-1968 construction, reconstruction, or erection: Multiply line (1) by portion of total cost of facility attributable to post-1968 construction, reconstruction, or erection ($360,000) and divide by the total cost of the facility ($400,000)		$280,000
(3) Reduction for portion of depreciation deduction taken for the taxable year in which the facility was completed:		
(a) $10,000 depreciation deduction taken for last 6 months of 1970 including $2,000 for additional first year depreciation under section 170	$10,000	
(b) Multiplied by the the amount in line (2) and divided by the total cost of the facility ($288,000/$400,000)	0.72	$7,200
(4) Subtotal		$280,800
(5) Modification for profit making abatement works; Multiply line (4) by estimated profits through waste recovery ($80,000) and divide by the amount in line (1) ($320,000):		
(6) Reduction		$70,200
(7) Subtotal		$210,600
(8) Modification for period referred to in paragraph (a)(6) of § 1.169-2 exceeding 15 years: Multiply by 15 years and divide by such period (determined in accordance with paragraph (d) of this section) (20 years)		0.75
(9) Amortizable basis		$157,950

(f) *Additions or improvements.* (1) If after the completion or acquisition of a certified pollution control facility further expenditures are made for additional construction, reconstruction, or improvements, the cost of such additions or improvements made prior to the beginning of the amortization period shall increase the amortizable basis of such facility, but the cost of additions or improvements made after the amortization period has begun, shall not increase the amortizable basis. See section 169(f)(2)(B).

(2) If expenditures for such additional construction, reconstruction, or improvements result in a facility which is new and is separately certified as a certified pollution control facility as defined in section 169(d)(1) and paragraph (a) of § 1.169-2, and, if proper election is made, such expenditures shall be taken into account in computing under paragraph (a) of this section the amortizable basis of such new and separately certified pollution control facility.

§ 1.169-4 Time and manner of making elections.

(a) *Election of amortization*—(1) *In general.* Under section 169(b), an election by the taxpayer to take an amortization deduction with respect to a certified pollution control facility and to begin the 60-month amortization period (either with the month following the month in which the facility is completed or acquired, or with the first month of the taxable year succeeding the taxable year in which such facility is completed or acquired) shall be made by a statement to that effect attached to its return for the taxable year in which falls the first month of the 60-month amortization period so elected. Such statement shall include the following information (if not otherwise included in the documents referred to in subdivision (ix) of this subparagraph):

(i) A description clearly identifying each certified pollution control facility for which an amortization deduction is claimed;

(ii) The date on which such facility was completed or acquired (see paragraph (b)(2)(iii) of § 1.169-2);

(iii) The period referred to in paragraph (a)(6) of § 1.169-2 for the facility as of the date the property is placed in service;

(iv) The date as of which the amortization period is to begin;

(v) The date the plant or other property to which the facility is connected began operating (see paragraph (a)(5) of § 1.169-2);

(vi) The total costs and expenditures paid or incurred in the acquisition, construction, and installation of such facility;

(vii) A description of any wastes which the facility will recover during the course of its operation, and a reasonable estimate of the profits which will be realized by the sale of such wastes whether pollutants or otherwise, over the period referred to in paragraph (a)(6) of § 1.169-2 as to the facility. Such estimate shall include a schedule setting forth a detailed computation illustrating how the estimate was arrived at including every element prescribed in the definition of estimated profits in paragraph (d)(2) of § 1.169-2;

(viii) A computation showing the amortizable basis (as defined in § 1.169-3) of the facility as of the first month for which the amortization deduction provided for by section 169(a) is elected; and

(ix) (*a*) A statement that the facility has been certified by the Federal certifying authority, together with a copy of such certification, and a copy of the application for certification which was filed with and approved by the Federal certifying authority or (*b*), if the facility has not been certified by the Federal certifying authority, a statement that application has been made to the proper State certifying authority (see paragraph (c)(2) of § 1.169-2) together with a copy of such application and a copy of the application filed or to be filed with the Federal certifying authority.

If subdivision (ix)(*b*) of this subparagraph applies, within 90 days after receipt by the taxpayer, the certification from the Federal certifying authority shall be filed by the taxpayer with the district director, or with the director of the internal revenue service center, with whom the return referred to in this subparagraph was filed.

(2) *Special rule.* If the return for the taxable year in which falls the first month of the 60-month amortization period to be elected was filed before May 18, 1971, or is filed within 60 days after such date, then on or before the 90th day after such date (or if there is no State certifying authority in existence on such date, on or before the 90th day after such authority is established) the election may be made by a statement in an amended income tax return for the taxable year in which falls

the first month of the 60-month amortization period so elected. Amended income tax returns or claims for credit or refund must also be filed at this time for other taxable years which are within the amortization period and which are subsequent to the taxable year for which the election is made. Nothing in this paragraph should be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(3) *Other requirements and considerations.* No method of making the election provided for in section 169(a) other than that prescribed in this section shall be permitted on or after May 18, 1971. A taxpayer which does not elect in the manner prescribed in this section to take amortization deductions with respect to a certified pollution control facility shall not be entitled to such deductions. In the case of a taxpayer which elects prior to [such date], the statement required by subparagraph (1) of this paragraph shall be attached to its income tax return for its taxable year in which [such date] occurs.

(b) *Election to discontinue or revoke amortization*—(1) *Election to discontinue.* An election to discontinue the amortization deduction provided by section 169(c) and paragraph (a)(1) of § 1.169–1 shall be made by a statement in writing filed with the district director, or with the director of the internal revenue service center, with whom the return of the taxpayer is required to be filed for its taxable year in which falls the first month for which the election terminates. Such statement shall specify the month as of the beginning of which the taxpayer elects to discontinue such deductions. Unless the election to discontinue amortization is one to which subparagraph (2) of this paragraph applies, such statement shall be filed before the beginning of the month specified therein. In addition, such statement shall contain a description clearly identifying the certified pollution control facility with respect to which the taxpayer elects to discontinue the amortization deduction, and, if a certification has previously been issued, a copy of the certification by the Federal certifying authority. If at the time of such election a certification has not been issued (or if one has been issued it has not been filed as provided in paragraph (a)(1) of this section), the taxpayer shall file, with respect to any taxable year or years for which a deduction under section 169 has been taken, a copy of such certification within 90 days after receipt thereof. For purposes of this paragraph, notification to the Secretary or his delegate from the Federal certifying authority that the facility no longer meets the requirements under which certification was originally granted by the State or Federal certifying authority shall have the same effect as a notice from the taxpayer electing to terminate amortization as of the month following the month such facility ceased functioning in accordance with such requirements.

(2) *Revocation of elections made prior to May 18, 1971.* If on or before May 18, 1971, an election under section 169(a) has been made, such election may be revoked (see paragraph (a)(1) of § 1.169–1) by filing on or before August 16, 1971, a statement of revocation of an election under section 169(a) in accordance with the requirements in subparagraph (1) of this paragraph for filing a notice to discontinue an election. If such election to revoke is for a period which falls within one or more taxable years for which an income tax return has been filed, amended income tax returns shall be filed for any such taxable years in which deductions were taken under section 169 on or before August 16, 1971.

PAR. 3. Paragraph (e)(1) of §1.179–1 is amended to read as follows:

§ 1.179–1 Additional first-year depreciation allowance.

* * * * *

(e) *When allowance is available.* (1) * * *

(ii) In the case of property which the taxpayer elects to amortize under any provision listed in subdivision (iii) of this subparagraph and which property also qualifies as section 179 property, the additional first-year depreciation allowance is not available (except as provided in this subdivision) unless the taxpayer elects under the applicable provision to begin the amortization deductions under such provision with the succeeding taxable year. If the taxpayer elects to begin the amortization deductions with the month following the month in which the property was completed or acquired or was placed in service (as the case may be), and the property qualifies as section 179 property, the additional first-year allowance is available only with respect to that portion of the property which is not amortizable under the applicable provision. If 100 percent of the property is amortizable under the applicable provision, and if the taxpayer elects under the applicable provision to begin the amortization deductions under such provision with such following month, no additional first-year allowance is available with respect to any portion of the property.

(iii) The provisions of subdivision (ii) of this subparagraph shall apply in the case of the following:

(*a*) An emergency facility which the taxpayer elects to amortize under the provisions of section 168.

(*b*) A certified pollution control facility which the taxpayer elects to amortize under the provisions of section 169.

* * * * *

PAR. 4. Section 1.642(f) is amended by revising section 642(f), and by adding a historical note. These amended and added provisions read as follows:

§ 1.642(f) Statutory provisions; estates and trusts; special rules for credits and deductions; amortization deductions.

Sec. 642. *Special rules for credits and deductions.* * * *

(f) *Amortization deductions.* The benefit of the deduction for amortization provided by sections 168, 169, 184, and 187 shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Secretary or his delegate.

[Sec. 642(f) as amended by sec. 704(b)(2), Tax Reform Act 1969 (83 Stat. 669)]

PAR. 5. Section 1.642(f)–1 is amended to read as follows:

§ 1.642(f)–1 Amortization deductions.

An estate or trust is allowed amortization deductions with respect to an emergency facility as defined in section 168(d), with respect to a certified pollution control facility as defined in section 169(d), with respect to qualified railroad rolling stock as defined in section 184(d), and with respect to certified coal mine safety equipment as defined in section 187(d), in the same manner and to the same extent as in the case of an individual. However, the principles governing the apportionment of the deductions for depreciation and depletion between fiduciaries and the beneficiaries of an estate or trust (see sections 167(h) and 611(b) and the regulations thereunder) shall be applicable with respect to such amortization deductions.

PAR. 6. Section 1.1082 is amended by revising subparagraph (B) of section 1082(a)(2) and by adding a historical note. These revised and added provisions read as follows:

§ 1.1082 Statutory provisions; basis of property acquired in exchanges and distributions made in obedience to orders of the Securities and Exchange Commission.

Sec. 1082. *Basis for determining gain or loss*—(a) *Exchanges generally.* * * *

(2) *Exchanges subject to the provisions of section 1081(b).* * * *

(B) Property (not described in subparagraph (A)) with respect to which a deduction for amortization is allowable under sections 168, 169, 184, 185, or 187;

* * * * *

[Sec. 1082 as amended by sec. 704(b)(3), Tax Reform Act, 1969 (83 Stat. 669)]

[FR Doc.71–6918 Filed 5–17–71;8:52 am]

[T.D. 7114]

INCREASE IN AMOUNT OF DEDUCTION ALLOWED FOR PERSONAL EXEMPTIONS

On December 17, 1970, notice of proposed rule making, relating to the amendment of the Income Tax Regulations (26 CFR Part 1), the Employment Tax Regulations (26 CFR Part 31), and the Regulations on Procedure and Administration (26 CFR Part 301) to conform them to the amendments to the Internal Revenue Code of 1954 made by sections 801 and 941(b) of the Tax Reform Act of 1969 (83 Stat. 675, 726), was published in the FEDERAL REGISTER (35 F.R. 19112). After consideration of all such relevant matter as was presented

by interested persons regarding the rules proposed, the amendment of regulations as proposed, except for the amendment made by paragraph 1 of the notice, is hereby adopted.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: May 13, 1971.
JOHN S. NOLAN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1), the Employment Tax Regulations (26 CFR Part 31), and the Regulations on Procedure and Administration (26 CFR Part 301) to the amendments to sections 151 and 6013(b)(3)(A) of the Internal Revenue Code of 1954 by sections 801 and 941(b) of the Tax Reform Act of 1969 (83 Stat. 675, 726), such regulations are amended as follows:

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PARAGRAPH 1. Paragraph (a) of § 1.4–1 is revised to read as follows:

§ 1.4–1 Number of exemptions.

(a) For the purpose of determining the optional tax imposed under section 3, the taxpayer shall use the number of exemptions allowable to him as deductions under section 151. See sections 151, 152, and 153, and the regulations thereunder. In general, one exemption is allowed for the taxpayer; one exemption for his spouse if a joint return is made, or if a separate return is made by the taxpayer and his spouse has no gross income for the calendar year in which the taxable year of the taxpayer begins and is not the dependent of another taxpayer for such calendar year; and one exemption for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than the applicable amount determined pursuant to § 1.151–2. No exemption is allowed for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins. The taxpayer may, in certain cases, be allowed an exemption for a dependent child of the taxpayer notwithstanding the fact that such child has gross income equal to or in excess of the amount determined pursuant to § 1.151–2 applicable to the calendar year in which the taxable year of the taxpayer begins. The requirements for the allowance of such an exemption are set forth in paragraph (c) of § 1.152–1. See paragraphs (c) and (d) of § 1.151–1 with respect to additional exemptions for a taxpayer or spouse who has attained the age 65 years and for a blind taxpayer or blind spouse.

* * * * *

PAR. 2. The example contained in paragraph (e)(4) of § 1.72–17 is revised to read as follows:

§ 1.72–17 Special rules applicable to owner-employees.

* * * * *

(e) *Penalties applicable to certain amounts received by owner-employees.* * * *

(4) * * *

Example. B, a sole proprietor and a calendar-year basis taxpayer, established a qualified pension trust to which he made annual contributions for 10 years of 10 percent of his earned income. B withdrew his entire interest in the trust during 1973 when he was 55 years old and not disabled and for which, without regard to the distribution, he had a net operating loss and for which he is allowed under section 151 a deduction for one personal exemption. The portion of the distribution includible in B's gross income is $25,750. In addition, B had a net operating loss for 1972. The other 3 taxable years involved in the computation under subparagraph (2)(i) of this paragraph were years of substantial income. For purposes of determining B's increase in tax attributable to the receipt of the $25,750 (before the application of the provisions of subparagraph (2)(i)(b) of this paragraph), B's taxable income for the year he received the $25,750 is treated, under subparagraph (3)(ii) of this paragraph, as being $25,000 ($25,750 minus $750, the amount of the deduction allowed for each personal exemption under section 151 for 1973). For purposes of determining whether 110 percent of the aggregate increase in taxes which would have resulted if 20 percent of the amount of the withdrawal had been included in B's gross income for the year of receipt and for each of the 4 preceding taxable years is greater (and thus is the amount of his increase in tax attributable to the receipt of the $25,750), B's taxable income for the taxable year of receipt, and for the immediately preceding taxable year, is treated, under subparagraph (3)(i) of this paragraph, as being $5,150 ($25,750 divided by 5).

* * * * *

PAR. 3. The example contained in paragraph (d)(2) of § 1.72–18 is revised to read as follows:

§ 1.72–18 Treatment of certain total distributions with respect to self-employed individuals.

* * * * *

(d) *Computation of tax.* * * *

(2) * * *

Example. B, a sole proprietor and a calendar-year basis taxpayer, established a qualified pension trust to which he made annual contributions for 10 years of 10 percent of his earned income. B withdrew his entire interest in the trust during 1973, for which year, without regard to the distribution, he had a net operating loss and is allowed under section 151 a deduction for one personal exemption. At the time of the withdrawal, B was 64 years old. The amount of the distribution that is includible in his gross income is $25,750. Because of B's net operating loss, the tax attributable to the distribution is determined under the rule of subparagraph (1)(ii) of this paragraph. For purposes of determining the tax attributable to the $25,750, B's taxable income for 1973 is treated, under subparagraph (1)(ii) of this paragraph, as being 20 percent of $25,000 ($25,750 minus $750, the amount of the deduction allowed for each personal exemption under section 151 for 1973). Thus, under subparagraph (1) of this paragraph, the tax attributable to the $25,750 would be 5 times the increase which would result if the taxable income of B for the taxable year he received such amount equaled $5,000. B has had no amounts withheld from wages and thus is not entitled to reduce the increase in taxes by the credit against tax provided in section 31 and may not reduce the increase in taxes by any other credits against tax.

PAR. 4. Section 1.151 is amended by revising section 151 (b), (c), (d) (1) and (2), and so much of section 151(e)(1) as precedes subparagraph (B), and by adding a historical note. These amended and added provisions read as follows:

§ 1.151 Statutory provisions; allowance of deductions for personal exemptions.

SEC. 151. *Allowance of deductions for personal exemptions.* * * *

(b) *Taxpayer and spouse.* An exemption of [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] for the taxpayer; and an additional exemption of [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(c) *Additional exemption for taxpayer or spouse aged 65 or more*—(1) *For taxpayer.* An additional exemption of [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(2) *For spouse.* An additional exemption of [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(d) *Additional exemption for blindness of taxpayer or spouse*—(1) *For taxpayer.* An additional exemption of [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] for the taxpayer if he is blind at the close of his taxable year.

(2) *For spouse.* An additional exemption of [$750 for taxable years beginning after

Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

* * * * *

(e) *Additional exemption for dependents*—(1) *In general.* An exemption of [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] for each dependent (as defined in section 152)—

(A) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971], or

* * * * *

[Sec. 151 as amended by secs. 801 and 941(b), Tax Reform Act 1969 (83 Stat. 675, 726)]

PAR. 5. Paragraphs (b), (c)(1), and (d) (1) and (2) of § 1.151–1 are revised to read as follows:

§ 1.151–1 Deductions for personal exemptions.

* * * * *

(b) *Exemptions for individual taxpayer and spouse (so-called personal exemptions).* Section 151(b) allows an exemption for the taxpayer and an additional exemption for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. Thus, a husband is not entitled to an exemption for his wife on his separate return for the taxable year beginning in a calendar year during which she has any gross income (though insufficient to require her to file a return). Since, in the case of a joint return, there are two taxpayers (although under section 6013 there is only one income for the two taxpayers on such return, i.e., their aggregate income), two exemptions are allowed on such return, one for each taxpayer spouse. If in any case a joint return is made by the taxpayer and his spouse, no other person is allowed an exemption for such spouse even though such other person would have been entitled to claim an exemption for such spouse as a dependent if such joint return had not been made.

(c) *Exemptions for taxpayer attaining the age of 65 and spouse attaining the age of 65 (so-called old-age exemptions).* (1) Section 151(c) provides an additional exemption for the taxpayer if he has attained the age of 65 before the close of his taxable year. An additional exemption is also allowed to the taxpayer for his spouse if a joint return is not made by the taxpayer and his spouse and if the spouse has attained the age of 65 before the close of the taxable year of the taxpayer and, for the calendar year in which the taxable year of the taxpayer begins, the spouse has no gross income and is not the dependent of another taxpayer. If a husband and wife make a joint return, an old-age exemption will be allowed as to each taxpayer spouse who has attained the age of 65 before the close of the taxable year for which the joint return is made. The exemptions under section 151(c) are in addition to the exemptions for the taxpayer and spouse under section 151(b).

* * * * *

(d) *Exemptions for the blind.* (1) Section 151(d) provides an additional exemption for the taxpayer if he is blind at the close of his taxable year. An additional exemption is also allowed to the taxpayer for his spouse if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. The determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death.

(2) The exemptions for the blind are in addition to the exemptions for the taxpayer and spouse under section 151 (b) and are also in addition to the exemptions under section 151(c) for taxpayers and spouses attaining the age of 65 years. Thus, a single individual who has attained the age of 65 before the close of his taxable year and who is blind at the close of his taxable year is entitled, in addition to the so-called personal exemption, to two further exemptions, one by reason of his age and the other by reason of his blindness. If a husband and wife make a joint return, an exemption for the blind will be allowed as to each taxpayer spouse who is blind at the close of the taxable year for which the joint return is made.

* * * * *

PAR. 6. Section 1.151–2 is revised to read as follows:

§ 1.151–2 Additional exemptions for dependents.

(a) Section 151(e) allows to a taxpayer an exemption for each dependent (as defined in section 152) whose gross income (as defined in section 61) for the calendar year in which the taxable year of the taxpayer begins is less than the amount provided in section 151(e)(1)(A) applicable to the taxable year of the taxpayer, or who is a child of the taxpayer and who—

(1) Has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

(2) Is a student, as defined in paragraph (b) of § 1.151–3.

No exemption shall be allowed under section 151(e) for any dependent who has made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins. The amount provided in section 151(e)(1)(A) is $750 in the case of a taxable year beginning after December 31, 1972; $700 in the case of a taxable year beginning after December 31, 1971, and before January 1, 1973; $650 in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972; $625 in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971; and $600 in the case of a taxable year beginning before January 1, 1970. For special rules in the case of a taxpayer whose taxable year is a fiscal year ending after December 31, 1969, and beginning before January 1, 1973, see section 21(d) and the regulations thereunder.

(b) The only exemption allowed for a dependent of the taxpayer is that provided by section 151(e). The exemptions provided by section 151(c) (old-age exemptions) and section 151(d) (exemptions for the blind) are allowed only for the taxpayer or his spouse. For example, where a taxpayer provides the entire support for his father who meets all the requirements of a dependent, he is entitled to only one exemption for his father (section 151(e)), even though his father is over the age of 65.

PAR. 7. Immediately after § 1.151–3 the following new section is added:

§ 1.151–4 Amount of deduction for each exemption under section 151.

The amount allowed as a deduction for each exemption under section 151 is (a) $750 in the case of a taxable year beginning after December 31, 1972; (b) $700 in the case of a taxable year beginning after December 31, 1971, and before January 1, 1973; (c) $650 in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972; (d) $625 in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971; and (e) $600 in the case of a taxable year beginning before January 1, 1970. For special rules in the case of a fiscal year ending after December 31, 1969, and beginning before January 1, 1973, see section 21(d) and the regulations thereunder.

PAR. 8. Paragraph (c) of § 1.152–1 is revised to read as follows:

§ 1.152–1 General definition of a dependent.

* * * * *

(c) In the case of a child of the taxpayer who is under 19 or who is a student, the taxpayer may claim the dependency exemption for such child provided he has furnished more than one-half of the support of such child for the

calendar year in which the taxable year of the taxpayer begins, even though the income of the child for such calendar year may be equal to or in excess of the amount determined pursuant to § 1.151–2 applicable to such calendar year. In such a case, there may be two exemptions claimed for the child: One on the parent's (or stepparent's) return, and one on the child's return. In determining whether the taxpayer does in fact furnish more than one-half of the support of an individual who is a child, as defined in paragraph (a) of § 1.151–3, of the taxpayer and who is a student, as defined in paragraph (b) of § 1.151–3, a special rule regarding scholarships applies. Amounts received as scholarships, as defined in paragraph (a) of § 1.117–3, for study at an educational institution shall not be considered in determining whether the taxpayer furnishes more than one-half the support of such individual. For example, A has a child who receives a $1,000 scholarship to the X college for 1 year. A contributes $500, which constitutes the balance of the child's support for that year. A may claim the child as a dependent, as the $1,000 scholarship is not counted in determining the support of the child. For purposes of this paragraph, amounts received for tuition payments and allowances by a veteran under the provisions of the Servicemen's Readjustment Act of 1944 (58 Stat. 284) or the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. ch. 38) are not amounts received as scholarships. See also § 1.117–4. For definetion of the terms "child", "student", and "educational institution", as used in this paragraph, see § 1.151–3.

PAR. 9. Paragraph (a)(3)(i) of § 1.213–1 is revised to read as follows:

§ 1.213–1 Medical, dental, etc., expenses.

(a) *Allowance of deduction.* * * *

(3) (i) For medical expenses paid (including expenses paid for medicine and drugs) to be deductible, they must be for medical care of the taxpayer, his spouse, or a dependent of the taxpayer and not be compensated for by insurance or otherwise. Expenses paid for the medical care of a dependent, as defined in section 152 and the regulations thereunder, are deductible under this section even though the dependent has gross income equal to or in excess of the amount determined pursuant to § 1.151–2 applicable to the calendar year in which the taxable year of the taxpayer begins. Where such expenses are paid by two or more persons and the conditions of section 152(c) and the regulations thereunder are met, the medical expenses are deductible only by the person designated in the multiple support agreement filed by such persons and such deduction is limited to the amount of medical expenses paid by such person.

* * * * *

PAR. 10. Paragraph (d)(2)(iii) of § 1.214–1 is revised to read as follows:

§ 1.214–1 Expenses for the care of certain dependents.

* * * * *

(d) *Dependents.* * * *

(2) *Special rules.* * * *

(iii) The rules provided in sections 151 and 152, with respect to the definition and qualification of an individual as a dependent, govern for the purpose of section 214. Thus, expenses for the care of a child or stepchild under the age of 13 years (for taxable years beginning before Jan. 1, 1964, under the age of 12 years) whom the taxpayer supports are deductible even though the child or stepchild has gross income equal to or in excess of the amount determined pursuant to § 1.151–2 applicable to the calendar year in which the taxable year of the taxpayer begins. On the other hand, expenses for the care of an aged parent would not be deductible if the gross income condition of § 1.151–2 is not met.

* * * * *

PAR. 11. Section 1.6013 is amended by revising subsection (b)(3)(A) (ii) and (iii) of section 6013 and the historical note to read as follows:

§ 1.6013 Statutory provisions; joint returns of income tax by husband and wife.

SEC. 6013. *Joint returns of income tax by husband and wife.* * * *

(b) *Joint return after filing separate return.* * * *

(3) *When return deemed filed—*(A) *Assessment and collection.* * * *

(ii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had less than [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] of gross income ([$1,500 for taxable years beginning after Dec. 31, 1972; $1,400 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $1,300 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $1,250 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] in case such spouse was 65 or over) for such taxable year—on the date of the filing of such separate return (but not earlier than the last date prescribed by law for the filing of such separate return); or

(iii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had gross income of [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] or more ([$1,500 for taxable years beginning after Dec. 31, 1972; $1,400 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $1,300 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $1,250 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] in case such spouse was 65 or over) for such taxable year—on the date of the filing of such joint return.

* * * * *

[Sec. 6013 as amended by sec. 73, Technical Amendments Act 1958 (72 Stat. 1660); sec. 801, Tax Reform Act 1969 (83 Stat. 675)]

SUBCHAPTER C—EMPLOYMENT TAXES

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

PAR. 12. Paragraph (d)(3)(iii) of § 31.3402(f)(1)–1 is revised to read as follows:

§ 31.3402(f)(1)–1 Withholding exemptions.

* * * * *

(d) *Withholding exemptions to which an employee is entitled in respect of dependents.* * * *

(3) * * *

(iii) Either (*a*) reasonably be expected to have gross income of less than the amount determined pursuant to § 1.151–2 of this chapter (Income Tax Regulations) applicable to the calendar year in which the taxable year of the taxpayer begins, or (*b*) be a child (son, stepson, daughter, stepdaughter, adopted son, or adopted daughter) of the employee who (*1*) will not have attained the age of 19 at the close of the calendar year or (2) is a student as defined in section 151.

* * * * *

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—PROCEDURE AND ADMINISTRATION

PAR. 13. Section 301.6013 is amended by revising subsection (b)(3)(A)(ii) and (iii) of section 6013 and the historical note to read as follows:

§ 301.6013 Statutory provisions; joint returns of income tax by husband and wife.

SEC. 6013. *Joint returns of income tax by husband and wife.* * * *

(b) *Joint return after filing separate return.* * * *

(3) *When return deemed filed—*(A) *Assessment and collection.* * * *

(ii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had less than [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] of gross income ([$1,500 for taxable years beginning after Dec. 31, 1972; $1,400 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $1,300 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $1,250 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] in case such spouse was 65 or over) for such taxable year—on the date of the filing of such separate return (but not earlier than the last date prescribed by law for the filing of such separate return); or

(iii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had gross income of [$750 for taxable years beginning after Dec. 31, 1972; $700 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $650 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $625 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] or more ([$1,500 for taxable years beginning after Dec. 31, 1972; $1,400 for taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973; $1,300 for taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972; $1,250 for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971] in case such spouse was 65 or over) for such taxable year—on the date of the filing of such joint return.

* * * * *

[Sec. 6013 as amended by sec. 73, Technical Amendments Act, 1958 (72 Stat. 1660); sec. 801, Tax Reform Act 1969 (83 Stat. 675)]

[FR Doc.71-6916 Filed 5-17-71;8:52 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER C—AIDS TO NAVIGATION

[CGFR 71-8]

PART 62—U.S. AIDS TO NAVIGATION SYSTEM

PART 74—CHARGES FOR COAST GUARD AIDS TO NAVIGATION WORK

Charges to Federal Agencies Other Than the Armed Forces

This amendment revises the regulations regarding charges to Federal agencies other than the Armed Forces for the establishment and maintenance of aids to navigation to allow the Commandant to waive or reduce charges to Federal agencies. This amendment makes possible a more efficient use of the Coast Guard Aids to Navigation capabilities.

Since this amendment relates to internal management, procedure, and practice of the Coast Guard, notice and public procedure thereon are not required by 5 U.S.C. 553 and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

Accordingly, Subchapter C of Chapter I of Title 33 of the Code of Federal Regulations is amended as follows:

1. By revising § 62.01-10 of Part 62 as follows:

§ 62.01-10 Federal Agencies other than the Armed Forces.

* * * * *

(b) The Coast Guard may establish and maintain aids to navigation for the primary benefit of a Federal agency other than the Armed Forces on a reimbursable basis. The charges for establishing and maintaining such aids shall be in accordance with Subpart 74.15 of this subchapter.

* * * * *

2. By revising Subpart 74.15 of Part 74 to read as follows:

Subpart 74.15—Charges to Federal Agencies Other Than the Armed Forces

§ 74.15-1 Charges.

(a) The charges for establishing and maintaining an aid to navigation that is for the primary benefit of a Federal agency other than the Armed Forces under the provisions of § 62.01-10(b) of this subchapter are as follows:

(1) For establishing a permanent aid, the actual cost of construction;

(2) For maintaining a permanent aid, including servicing time, the charges determined under Subpart 74.20 of this part; and

(3) For both establishing and maintaining temporary aids, the charges determined under Subpart 74.20 of this part.

(b) The Commandant may waive or reduce any of the charges in paragraph (a) of this section.

(80 Stat. 383, sec. 1, 63 Stat. 500, 501, 503, 504, 545, as amended, sec. 1, 38 Stat. 1084, as amended, sec. 6(b), 80 Stat. 937; 5 U.S.C. 553, 14 U.S.C. 81, 83, 86, 92, 93, 633, 31 U.S.C. 686, 49 U.S.C. 1655(b); 49 CFR 1.46(b) (35 F.R. 4959))

Effective date. This amendment becomes effective upon June 15, 1971.

Dated: May 7, 1971.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.71-6859 Filed 5-17-71;8:47 am]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

SUBCHAPTER E—EMPLOYMENT AND COMPENSATION IN THE CANAL ZONE

PART 253—REGULATIONS OF THE SECRETARY OF THE ARMY

Subpart A—General Provisions

EXCLUSIONS

Effective upon publication in the FEDERAL REGISTER (5-18-71), paragraph (c) of § 253.8 is amended by adding a new subparagraph (12), reading as follows:

§ 253.8 Exclusions.

* * * * *

(c) * * *

(12) Positions of mess attendant which are designated by the commander of the employing military command for occupancy of San Blas (Cuna) Indians pursuant to agreements with the San Blas Tribal Chieftain.

* * * * *

(2 CZC 142, 155, 76A Stat. 16, 19; 35 CFR 251.2)

Dated: May 6, 1971.

STANLEY R. RESOR,
Secretary of the Army.

[FR Doc.71-6840 Filed 5-17-71;8:45 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35 and 36

NONDUPLICATION; FEDERAL PROGRAMS

Section 21.4025 is revised to read as follows:

§ 21.4025 Nonduplication; Federal programs.

(a) *Chapter 35.* Payment of educational assistance allowance and special training allowance are prohibited to an otherwise eligible person:

(1) For a program of education pursued while on active duty; or

(2) For a unit course or courses which are paid for in whole or in part by the United States under the Government Employees' Training Act during any period that full salary is being paid him as an employee of the United States.

(b) *Chapter 34.* Payment of educational assistance allowance is prohibited to an otherwise eligible veteran:

(1) For a unit course or courses which are being paid for in whole or in part by the Armed Forces during any period he is on active duty; or

(2) For a unit course or courses which are being paid for in whole or in part by the Department of Health, Education, and Welfare during any period that he is on active duty in the Public Health Service; or

(3) For a unit course or courses which are being paid for in whole or in part by the United States under the Government Employees' Training Act during any period that full salary is being paid him as an employee of the United States. (38 U.S.C. 1701(d), 1781; Public Law 91-219, 84 Stat. 76)

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective March 26, 1970.

Approved: May 12, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-6871 Filed 5-17-71;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Subpart 101-47.49—Illustrations

STANDARD FORMS 118, 118a, 118b, and 118c

Sections 101-47.4902-4 (a), (g), (j), and (l) are revised to require that the